

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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MAR 17 1997

In the Matter of)
)
Implementation of the Non-Accounting) CC Docket No. 96-149
Safeguards of Sections 271 and 272 of the)
Communications Act of 1934, as amended)

REPLY COMMENTS OF U S WEST, INC.

- I. **THE FEDERAL COMMUNICATIONS COMMISSION ("COMMISSION") SHOULD GRANT ALL THE BELL OPERATING COMPANIES ("BOC") FORBEARANCE FROM THE REQUIREMENTS OF SECTION 272 FOR THEIR PROVISION OF E911 SERVICE.**

In its Comments on BellSouth Corporation's ("BellSouth") Petition for Forbearance ("Petition"),¹ Bell Atlantic Telephone Companies ("Bell Atlantic") has urged the Commission to grant all the BOCs blanket forbearance of the separate affiliate requirement of Section 272 for their interLATA provision of E911 service.² U S WEST, Inc. ("U S WEST") supports Bell Atlantic's position in this.³

No BOC service has greater public-interest implications than E911, which quite literally affects the health and safety of nearly all Americans. The Commission should take great pains to ensure that its actions do not jeopardize the

¹ **Public Notice, Pleading Cycle Established For Comments On BellSouth's Petition For Forbearance From Application Of Section 272 Of The Communications Of 1934 As Amended, To Previously Authorized Services**, CC Docket No. 96-149, DA 97-346, rel. Feb. 14, 1997. BellSouth Petition filed Feb. 7, 1997.

² Comments of Bell Atlantic, filed Mar. 6, 1997 at 1.

³ U S WEST filed its own Petition for Forbearance with respect to E911 service on March 14, 1997.

efficient operation of E911. That alone argues strongly for forbearance, so that the BOCs may continue to offer this invaluable service as they always have.

Only two commenters oppose BellSouth's Petition, as it relates to E911.⁴ MCI Telecommunications Corporation ("MCI") argues that forbearance can never be appropriate for a dominant carrier because "the marketplace cannot be relied upon to prevent unjust or unreasonable discrimination by a dominant carrier."⁵ MCI thus would have the Commission re-write Section 10 of the Communications Act, which generally authorizes the Commission to forbear the application "any provision of this Act to a telecommunications carrier" (subject to exceptions not relevant here). If Congress had intended to permit forbearance only with respect to non-dominant carriers, it surely would have said so.

In any event, MCI's argument misapprehends the standard for forbearance as established by the Communications Act. Section 10(a) requires the Commission to forbear from applying a provision of the Communications Act to a telecommunications carrier or service if:

1. enforcement of such . . . provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
2. enforcement of such . . . provision is not necessary for the protection of consumers; and

⁴ Sprint Communications Company, L.P. ("Sprint") opposes the Petition only as it relates to reverse directory assistance. It is silent as to E911. Comments of Sprint, filed Mar. 6, 1997.

⁵ Opposition of MCI, filed Mar. 6, 1997 at 4-5.

3. forbearance from applying such provision or regulation is consistent with the public interest.⁶

Forbearance is not contingent on the availability of market forces to constrain the carrier. Note that the BOCs have not requested deregulation of E911; they wish only to be able to continue to provide E911 as they always have.

Indeed, the BOCs' long history of providing E911 service provides all the evidence that may be needed to establish the propriety of forbearance in this case. Throughout the years, no one has suggested -- let alone proven -- that a separate affiliate is necessary to ensure the just and reasonable provision of E911 service or to protect consumers. MCI makes no such claim here, and its Comments thus provide no basis to reject BellSouth's Petition as it relates to the interLATA provision of E911 service.⁷

AT&T argues⁸ that, if the Commission should determine to grant forbearance, it should require BellSouth to comply with the nondiscrimination and accounting provisions of Section 272. AT&T cites no statutory sections, so we cannot know with certainty which provisions it has in mind. But the accounting and nondiscrimination provision of Sections 272(b), (c) and (d) apply only to the relationship between a BOC and its separate affiliate. They have nothing to do with a BOC's provision of service on an integrated basis.

⁶ 47 U.S.C. § 160(a)(1), (2) and (3).

⁷ MCI's other complaints appear to be peculiar to BellSouth and have no bearing on the provision of E911 service.

⁸ Comments of AT&T, filed Mar. 6, 1997 at 4.

II. CONCLUSION

For the reasons stated the Commission should grant the BOCs blanket forbearance of Section 272 as it might otherwise apply to their provision of E911 service.

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March 17, 1997

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 17th day of March, 1997, I have caused a copy of the foregoing **REPLY COMMENTS OF U S WEST, INC.** to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.


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